



Appl. No.	:	09/629,323
Applicant	:	James F. Allsup
Filed	:	July 31, 2000
Title	:	Long Term Disability Overpayment Recovery Service With Post Award Service and Savings Program and Financial Assistance
TC/A.U.	:	3626
Examiner	:	Alexander G. Kalinowski
Conf. No.	:	4709
Docket No.	:	AI 7554

**AMENDMENT D**

**EXHIBIT APPENDIX**

Exhibit 1 – AFFIDAVIT OF JAMES F. ALLSUP UNDER 37 C.F.R. §1.132

Exhibit A – Declaration of Barry Wolfson

Exhibit 2 – SUPPLEMENTAL AFFIDAVIT OF JAMES F. ALLSUP UNDER 37 C.F.R. §1.132

Exhibit A – Declaration of Jay Barriss

Exhibit B – Supplemental Declaration of Barry Wolfson

Exhibit C – Declaration of Scott Ritchie

Exhibit 3 – THIRD AFFIDAVIT OF JAMES F. ALLSUP UNDER 37 C.F.R. §1.132

APPLICANT: James F. Allsup  
SERIAL NO.: 09/629,323  
FILED: July 31, 2000  
EXAMINER: Dinh X. Nguyen  
DOCKET NO.: 7554  
GROUP ART UNIT: 3626  
FOR: Long Term Disability Overpayment Recovery Service With Post Award Service And Savings Plan

**Affidavit of James F. Allsup Under 37 C.F.R. §1.132**

James F. Allsup, being duly sworn, does hereby depose and say as follows:

1. I am the inventor of the Long Term Disability Overpayment Recovery Service With Post Award Service And Savings Plan described and claimed in application Serial No. 09/629,323 filed July 31, 2000. I own all rights, title and interest in the application and invention and have not assigned any rights to another party.
2. I am the founder, owner and Chief Executive Officer of Allsup, Inc. Allsup, Inc. ("Allsup") is the exclusive user of the Long Term Disability Overpayment Recovery Service With Post Award Service And Savings Plan described and claimed in application Serial No. 09/629,323.
3. Prior to founding Allsup, I was employed by the Social Security Administration ("SSA") from 1977 to 1982 as a claims and field representative.
4. Allsup was established in 1984. The original business purpose of the company was to utilize my experience working with the SSA to represent

individuals in their pursuit of Social Security Disability Insurance benefits ("SSDI") from the SSA.

5. Initially, Allsup's services focused primarily on Long-Term Disability ("LTD") insurance carriers and self-insured employers, who insured or extended LTD benefits to employees. I was aware, generally, that most LTD benefit plans allow the plan to reduce the amount of LTD benefits paid to a disabled individual, by the amount of SSDI the individual receives. It is to the benefit of the plan (and its insurer and sponsor) to pay for Allsup's services, so that the individual could obtain SSDI and the plan could reduce the amount of its LTD benefit payments going forward.

6. Although Allsup continued to represent uninsured individuals (i.e., those not having LTD benefits) in their pursuit of SSDI, it quickly began to receive increased referrals from LTD carriers and self-insured employers that desired to reduce their LTD obligations to disabled individuals by providing them Allsup's representation services. As my experience with these entities, their plans and referred individuals developed, I became aware that not only did the terms of the LTD benefit plans typically allow for the reduction of the ongoing LTD benefit, but they also required the repayment of past LTD benefits if and when SSDI was awarded by SSA retroactively ("overpayment").

7. As the number of referrals from LTD carriers and self-insured employers increased, Allsup began to take certain initial steps to address this overpayment issue. In this regard, it provided reminders to the individual that if and when SSDI was awarded, the individual would be obligated to repay any

overpayment to the LTD carrier or self-insured employer. Subsequently, Allsup included this information both verbally and in writing. This activity began in approximately 1986.

8. Initially, Allsup took no action to recover the overpayment. Allsup simply informed the individual that the LTD carrier or self-insured employer would contact the individual directly and would provide them with the exact amount to be repaid. This process included informing the LTD carrier or self-insured employer of the award, the date the individual became entitled to SSDI benefits and of the specific SSDI benefit amount, so that the LTD carrier or self-insured employer could calculate the overpayment amount and proceed with its own recovery efforts from the individual. This type of recovery effort amounted to a "back-end" approach by the LTD carrier or self-insured employer to recovering overpayments (i.e., the principal efforts and actions to recover the overpayment occurred only after the award of SSDI and the payment of retroactive benefits, and was conducted primarily by the LTD carrier or self-insured employer).

9. In my opinion, the information included in the SSDC (29 October 1993) reference cited by the Examiner does not pertain to an actual SSDC recovery service. It is not sufficient to enable SSDC or anyone else skilled in the art to recover LTD overpayments. It certainly does not teach or suggest the steps of my method. It also is my opinion, based upon my knowledge and belief, that the "back-end" type of information assistance only activity I described in paragraph 8, is the type of service SSDC was engaged in during October, 1993, when I first became aware of the SSDC brochure. It is my opinion that this "back-

end" type of information assistance only activity (i.e., simple verbal and written reminders to the individual as to their repayment obligation by the vendor representing the individual in their pursuit of SSDI and informing the carrier of the award) is the subject matter of the statement "coordination of overpayment recoveries resulting from SSDIB awards", contained in the SSDC brochure.

10. As Allsup continued to represent individuals referred by LTD carriers and self-insured employers, I became increasingly aware of the limited success such entities were having in effecting their own recoveries of overpayments. (See, paragraph 36, below). In my opinion this is due in part, and continues to be due in part, to the individual's perception of the LTD carrier or self-insured employer as an adversary.

11. Another problem created by the old way of recovering overpayments is that the process involved in the "back-end" LTD carrier/self-insured employer recovery approach described in paragraph 8, afforded significant time for the disabled individual to take "mental ownership" of the retroactive SSDI payment (i.e., as time passes, the financial and other pressures confronting the disabled individual cause the individual to spend the money received, for a purpose other than the repayment of the overpayment).

12. Due to the general adversarial relationship between the disabled individual and the LTD carrier/self-insured employer, and the fact that the disabled individual often spent the SSDI award rather than paying back their LTD carrier or self-insured employer, there was a long felt need in the industry for a process for recovering the overpayment from the individual which avoided these

problems, and increased the amount of the overpayment recovery and decreased the length of time it takes to collect the overpayment.

13. In contrast to the feelings about the LTD carrier/self-insured employer, I determined that the disabled individual generally views Allsup favorably, because Allsup has represented the individual in the typically complicated and lengthy application process for SSDI, and because Allsup had obtained an award of SSDI for the individual. I recognized the value of Allsup's relationship with the individual as well as the need to expedite the recovery of the overpayment, and thus began to explore the possibility of Allsup proceeding to take a greater role in the recovery of overpayments so as to address the long felt need in the industry.

14. Beginning in approximately 1991, Allsup employed for the first time an actual overpayment recovery service. I explored various alternatives to effect the recovery of overpayments that were not practical at the time, and ended up employing a "manual" process for expediting overpayment recovery. Essentially, that "manual" process began the overpayment recovery process before the overpayment was created. While conducting the initial SSDI application interview with the individual, the Allsup representative informed the individual that an overpayment may be created if Allsup was successful in obtaining an SSDI award. However, unlike the Allsup information assistance only activity I described in paragraph 8, the individual also was informed that Allsup could help them meet their repayment obligation, by having the individual forward their overpayment to Allsup upon receipt of the retroactive SSDI payment. Allsup also

informed the individual that if the he or she failed to repay the overpayment, it could result in a suspension of some or all of their LTD benefits.

15. In general, under the Allsup manual recovery system, the individual's SSDI application was submitted for processing and monitored until Allsup obtained the SSDI award. Upon award, Allsup notified both the individual and the LTD carrier or self-insured employer of the award. Allsup provided the individual with benefit information, which included the amount of the retroactive payment they would receive. Allsup then provided the same benefit information to the LTD carrier or self-insured employer so that they could compute the overpayment amount. Once the amount had been computed and forwarded back to Allsup, Allsup notified the individual of the overpayment amount. The individual then forwarded a check to Allsup for the overpayment amount. The check was made out to the carrier or the self-insured employer. Allsup in turn forwarded the payment on to the LTD carrier or self-insured employer or deposited the money in the entity's account established on its behalf by Allsup. Allsup still employs a manual version of overpayment recovery as a back up to the electronic system or, for use in some limited cases, where its client company or the SSDI recipient opt out of the automated recovery system.

16. Although the Allsup manual process for recovering overpayments was refined by modifying internal procedures in an attempt to improve recovery somewhat, the process still suffered from the same basic problems known to the industry. Most notable is that it still allowed the individual to get possession of

the overpayment and refuse payment to the LTD carrier or self-insured employer or spend the money.

17. I determined that I could solve a problem long known to the industry if I could develop a system that allowed an intermediary, such as Allsup, to recover the overpayment before the individual could spend the money or otherwise claim ownership of it. I also determined that the best possible way to do this would be through an electronic recovery from direct deposited SSDI benefits. In 1998 I began work on this type of electronic recovery, but encountered a number of obstacles.

18. Prior to initiating the current electronic process that is the subject of my patent application, it was recognized in the industry that applicable Federal law prevents the assignment of SSDI benefits by the individual. This long-standing rule is designed to protect the individual from overreaching by creditors and others. Section 207 of the Social Security Act (42 U.S.C. 407) states in pertinent part "(a) The right of any person to any future payment under this subchapter shall not be transferable or assignable, at law or in equity, and none of the moneys paid or payable or rights existing under this subchapter shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law." This provision of the Social Security Act has been interpreted very broadly by SSA and effectively bars the use of normal collection efforts.

19. Through my efforts in 1998, I determined that The Debt Collection Improvement Act of 1996 requires that most Federal payments be made by



electronic funds transfer effective after January 2, 1999. I also determined that the SSA eventually modified its Program Operations Manual (POMS) to reflect this change to provide that direct deposit payments of SSDI may be made to a checking or other deposit account, as long as the disabled individual has an ownership interest in the account.

20. My next step was to determine if I could in some manner employ direct deposit of SSDI benefits in a system to secure recovery of overpayment amounts. I conceived the idea of having a preauthorized withdrawal of funds from a direct payment account after the SSDI benefit was deposited and to use an electronic funds transfer to effect the withdrawal. A process to recover overpayments based upon a preauthorized withdrawal of a predetermined amount immediately following the direct deposit of SSDI benefits to the disabled individual's account had never before been used in this industry.

21. In developing my invention I was required to consider, research and effectively deal with a number of issues, the first of which was that I had to create an appropriate form to address the practicalities of effecting such recoveries in view of the procedures and inherent delays of the SSA application, award and payment process, as well as the inherent tension between the individual and the LTD carrier or self-insured employer.

22. I determined that, as a result of applicable Federal regulations (notably Regulation E of the Federal Reserve Board) and operating rules of the National Automated Clearing House Association ("NATCHA"), an ACH debit authorization (e.g., a preauthorized withdrawal), must clearly and conspicuously

state the terms of the authorization in order that the beneficiary understands the authorization to which he or she is agreeing. In particular, I determined that any such form must set forth (a) the amount of the future withdrawal, (b) the date on or after which the amount will be withdrawn, and (c) the right to cancel the authority and the manner by which it may be done. Further, the beneficiary must receive a copy of the authorization.

23. Another obstacle that had to be overcome in developing the process of my invention was that the exact amount and timing of the future withdrawal could not be determined at the time the claimant agrees to participate in the overpayment recovery program and a preauthorized withdrawal agreement is signed. I needed to develop a way to meet these requirements since there was no other procedure of this type utilized in the industry. I created a solution to the problem as follows:

- a. As to the amount, I determined that we could obtain from SSA a Personalized Earnings and Benefits Estimate Statement ("PEBES"), which details, among other things, SSA's estimate as to the amount of SSDI benefits an individual may be entitled to receive.
- b. I determined that by use of the PEBES, I could include in a preauthorization form a formula that would allow the individual to calculate (and thus determine/be aware of) the amount that would be withdrawn.

- c. As to the date on which the withdrawal would occur, I addressed this requirement by identifying the same to occur on or after the date that the retroactive SSDI payment is deposited.
- d. Even more unique, however, was the fact that while the form I developed is called a preauthorized withdrawal form, the form itself provides for only one withdrawal, thereby excluding it from the definition of "preauthorized withdrawal" under Regulation E.

24. The form I created to allow me to operate my claimed system is not standard by any means. Rather, it is peculiar to the issues involved in the award and payment of SSDI benefits by SSA, and the ability of entities to recover any overpayment, while at the same time complying with legal requirements for assignment of rights, direct deposit of a government benefit, and electronic transfer of funds.

25. During the course of development of my automated or "electronic" overpayment recovery process, I also became aware of Section 205.10(e)(2) of Regulation E, which provides, in pertinent part, that no person may require a consumer to establish an account for receipt of direct deposits with a particular banking institution as a condition of receipt of a government benefit. Although it initially appeared that this regulation presented a severe obstacle to my new method of recovery, I determined I could effect ACH transactions utilizing any account at any financial institution to avoid this potential barrier to effecting an "electronic" overpayment recovery process. Thus, through the inventive process,

I was able to develop a system that complies with Section 205.10(e)(2) of Regulation E.

26. After I developed a preauthorized withdrawal form that enabled me to work my invention while still complying with applicable laws and regulations, I set about incorporating its use in Allsup's overall overpayment recovery process. I developed an electronic process that differs from a manual recovery method in several regards, as follows:

- a. When the individual agrees to allow Allsup to assist them in meeting the repayment obligation, the individual also agrees to sign Allsup's preauthorized withdrawal form at the same time that they sign their SSDI application forms. The preauthorized withdrawal form authorizes Allsup to transfer the individual's overpayment from their bank account, automatically or electronically, at the time the retroactive SSDI is deposited.
- b. At the time that the individual signs the preauthorized withdrawal form, the client, through Allsup, elects direct deposit of their SSDI and Allsup submits the Social Security claim for processing.
- c. The individual's signed preauthorized withdrawal form is maintained in their claims file along with the necessary bank account information as processing begins.
- d. When Allsup first learns that it has obtained a SSDI award for the individual, it requests a "Fact Query" from SSA. This query contains all relevant SSDI information, such as the retroactive award, along with

the "DRD" or debit run date, as set out at page 22 of my patent application. The DRD provides the date that the Treasury Department has authorized payment, which allows Allsup to determine, generally, that the funds will be direct deposited into the individual's bank account 7 to 10 days from this date.

27. The ability of my invention to allow us to use the Fact Query is very important to my "electronic" overpayment recovery process. I was the first to recognize that this element allows us to be notified of the retroactive award amount and to be aware of the time that sufficient funds were available so that we would not have to engage in a daily inquiry of the financial institution, which would be both cumbersome and would eventually result in an adverse response from the financial institution involved. Without the Fact Query, it would almost be impossible to operate my system.

28. With my invention, as long as we receive the overpayment calculation from the LTD carrier or self-insured employer by the estimated date of deposit, we can then contact the individual's bank to verify sufficient funds for the withdrawal of the overpayment. Once sufficient funds have been verified, we then can proceed to effect the transfer via ACH software. Upon receipt of the overpaid funds in the Allsup account, it then forwards them on to the referring LTD carrier or self-insured employer.

29. For the first time in the industry my invention allows for a withdrawal or "sweep" of the calculated overpayment amount virtually right after SSA makes a direct deposit to the account. My invention has the tremendous advantage of

allowing (1) the individual to authorize this sweep not only before the SSDI funds have been deposited, but also before the SSDI claim has even been submitted, and (2) for Allsup to recover the overpayment amount authorized before the money is spent or before the individual reconsiders.

30. My system effectively utilizes the valuable relationship and goodwill developed between Allsup and the individual created as a result of the successful SSDI representation process. The new method provides a convenient and easy method for the individual to comply with his or her contractual obligation to repay the overpayment.

31. There is nothing obvious about my claimed process. There was no process or system known to the industry that functions like my new overpayment recovery system or even suggests my new overpayment recovery system. As I have set out above, I was the first person to develop a system that allows for preauthorization to obtain the overpayment and for the electronic sweep of a predetermined amount of overpayment from a direct deposit account on a predetermined date. It took years of research and development to create a system and supporting software, forms and procedures that comport with the applicable rules and regulations. The claimed process has met a long-felt need in the industry and has been quite successful commercially.

32. In late 1999, Allsup began to implement its new "electronic" overpayment recovery process with certain of its client companies. As a result, over the past several years, Allsup has experienced an increase in its rate of recovery of overpayments, as well as a reduction in the time it takes to effect

such recoveries. Of particular note is the decrease in the number of days it takes to effect recoveries, even in comparison to its "manual" overpayment recovery method.

33. The following is a chart indicating the increase in recovery percentages and dollars recovered for all overpayment recovery service clients that we have experienced over the full three-year period after commercial introduction of the process in November, 1999:

**TOTAL OVERPAYMENT RECOVERY SERVICE**  
(Recovery Percentages)

Year	Number of Recoveries Attempted	Number of Recoveries Made	% of Number Recovered	Dollar Amount of Recoveries Attempted	Dollar Amount of Recoveries Made	% of Dollars Recovered
1999	324	269	83.02%	\$3,844,244	\$3,220,635	83.78%
2000	1334	1160	86.96%	\$16,389,430	\$13,774,984	84.05%
2001	1869	1694	90.64%	\$22,498,021	\$19,847,580	88.22%
2002	2634	2340	88.84%	\$33,954,246	\$28,983,975	85.35%

34. As shown by the chart above, in the second full year that Allsup employed the method of my invention the total dollar amount of recoveries made increased by over \$6 million. Between 2001 and 2002, the dollar amount of recoveries increased by over \$9,000,000.

35. The average monthly dollar amount of recoveries for 2002 was \$2,415,533 and percentage of dollars recovered is 85.35%.

36. Based upon statements made by representatives of certain significant LTD carriers and/or information provided to Allsup by the same, I believe that, on average, such carriers were able to recover only 33% of overpayments within 60 days and only 75% of overpayments within 60 months, without the use of Allsup's present "electronic" method.

37. The following chart summarizes the decrease in the number of days until overpayment recovery after initiation of the overpayment recovery employing the system of the present invention:

**OVERPAYMENT RECOVERY SERVICE**  
(Average Days to Recovery)

Year	Manual Method Clients		Electronic Method Clients		Weighted Average Days to Recovery
	Number of Recoveries Made	Average Days to Recovery	Number of Recoveries Made	Average Days to Recovery	
1999	197	23.1	72	9.7	19.5
2000	154	22.4	1006	9.6	11.3
2001	167	24.7	1527	6.8	8.6
2002	168	31.1	2172	11.4	12.8

38. The following chart shows a break down of the dollar amount of recoveries made, comparing the amounts collected when the represented individual repaid the overpaid amount directly (Manual Method Clients) vs. the new electronic overpayment recovery system (Electronic Method Clients).

Year	Dollar Amount Of Recoveries Made		
	Manual Method Clients	Electronic Method Clients	Total Dollar Amount of Recoveries Made
1999	\$2,271,215	\$949,420	\$3,220,635
2000	\$1,757,748	\$12,017,236	\$13,774,984
2001	\$2,074,304	\$17,773,276	\$19,847,580
2002	\$1,934,180	\$27,049,795	\$28,983,975
Total	\$8,037,447	\$55,789,727	\$65,827,174

The chart above illustrates the tremendous commercial success my invention has met over that last three years. The total amount of recoveries



made per year from 1999 to 2002 grew by over \$25 million. For 2002, it is significant that over 93% of the total dollars recovered were electronic overpayment recovery system clients. Only approximately 7% of the recoveries were made through manual method clients. I believe this demonstrates the superiority of my invention over any method heretofore known for effecting recovery of the overpayment.

39. Allsup continues to receive significant and growing interest from LTD carriers and self-insured employers with respect to its present "electronic" overpayment recovery service. To date, it has been engaged by 36 companies to perform overpayment recovery services including the electronic overpayment recovery with a manual back up. We anticipate that an additional three to six companies will engage it for these services within the ensuing year.

40. Certain of Allsup's more significant carrier clients, which have experienced the enhanced results provided by Allsup's new methodology in pilot programs, have either indicated their desire to or are in the process of expanding the program to substantially all of their LTD claim base.

41. Further, one of Allsup's more significant client companies has indicated that the effectiveness of Allsup's new methodology has caused it to make further reserve adjustments (i.e., to further reduce the reserve allocated by such LTD carrier to cover future payouts on insured individuals, beyond those adjustments normally made when an individual is simply awarded SSDI).

42. Attached to this Affidavit is the Declaration of Mr. Barry Wolfson. Mr. Wolfson is familiar with all aspects of the long-term disability industry.

(Wolfson Decl. ¶ 3). Mr. Wolfson was employed by Aetna from December 20, 1965 to December 20, 2002. (Wolfson Decl. ¶ 4). For approximately 10 years during his career at Aetna, Mr. Wolfson was involved in the recovery of SSDI overpayments. (Wolfson Decl. ¶ 6). Mr. Wolfson confirmed the problems associated with recovery of overpayments that existed in the industry prior to the instant invention. (Wolfson Decl. ¶ 7). Mr. Wolfson confirmed that there was a long-felt need in the industry for a process of recovering the overpaid amounts after the insured received the SSDI benefit but before the insured disposed of the money. (Wolfson Decl. ¶ 8). Mr. Wolfson became familiar with the claimed invention in late 1999 or early 2000 when Aetna retained Allsup to provide overpayment recovery services. (Wolfson Decl. ¶ 9). With the claimed system, Aetna realized an increase in dollar amounts collected and a decrease in the time from the award of the SSDI benefit to the recovery of the overpaid amount. (Wolfson Decl. ¶ 10). In his opinion, the claimed automated overpayment recovery system dramatically improves the ability of private insurance carriers to collect overpaid monies owed to them. (Wolfson Decl. ¶ 11). Mr. Wolfson believes that the claimed automated overpayment recovery system met a long felt need in the industry for increasing the amount of money recovered and decreasing the time of recovery. (Wolfson Decl. ¶ 12).

43. In my opinion, the commercial success of my electronic overpayment recovery service is primarily attributable to the fact that (a) the individual signed preauthorization allows for electronic recovery of a predetermined overpayment amount from an approved designated account

before the recipient takes "ownership" of the funds; (b) the service results in an increase in the amount of money recovered; (c) the service decreases the average days to recovery, and (d) the service increases LTD carrier or self-insured employer overpayment recovery rates.

44. Allsup is the only company authorized to use my overpayment recovery system. However, I believe that there are at least two competitors who have tried to copy our system. I was made aware of these competitors when a major LTD Insurance carrier informed Allsup that other companies had expressed an interest in providing the same services that Allsup is providing. It is my opinion and belief these competitors acquired proprietary Allsup documents that detail the electronic overpayment recovery service.

45. In summary, my "electronic" overpayment recovery method, as deployed through Allsup, successfully addresses significant obstacles previously encountered in the recovery of overpayments effectively and efficiently, and benefits Allsup's LTD carrier and self-insured employer customer base, as well as the disabled individual by, among other things:

- a. Clearly and continually informing referred individuals of their obligation to repay any overpayment;
- b. Addressing this issue at the outset of the SSA application process and, more importantly, by obtaining the documentation and authorization necessary to effect such recovery before the individual's SSDI claim has ever been submitted. Because the individual pre-authorizes Allsup to recover the overpayment before the retroactive SSDI award has

- been produced, the individual does not attain "mental ownership" of the award when it does occur. As a result, the actual ACH transaction and successful overpayment recovery becomes the expected result, rather than an additional, subsequent issue, (i.e., an additional, subsequent collection matter/cost) for the LTD carrier or self-insured employer;
- c. Effectively utilizing the positive relationship between Allsup and the disabled individual, created as a result of Allsup's successful SSDI representation services;
  - d. Dramatically increasing the rate of recovery and reducing the time it takes to effect the same, so that overpayment monies can be put back into productive general corporate use, sooner, by LTD carriers and self-insured employers;
  - e. Providing such LTD carriers and self-insured employers the opportunity to reduce the amount of on-going LTD payments to individuals who obtain SSDI, and thus the reserves associated therewith, as well as the potential for further significant reserve adjustments; and

- f. Providing disabled individuals with a convenient and easy way to  
comply with their contractual obligations to repay the overpayment.

Further deponent sayeth not.

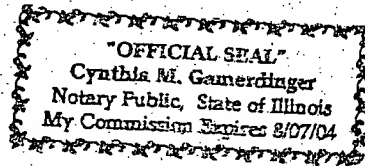
James F. Allsup  
James F. Allsup

Sworn and subscribed to before me this 26th day of FEB 2003

2003.

Cynthia M. Gernerding  
Notary Public

My Commission expires: 8/7/04



**APPLICANT:** James F. Allsup  
**SERIAL NO.:** 09/629,323  
**FILED:** July 31, 2000  
**EXAMINER:** Dinh X. Nguyen  
**DOCKET NO.:** 7554  
**GROUP ART UNIT:** 3626  
**FOR:** Long Term Disability Overpayment Recovery Service With Post Award Service And Savings Plan

### **Declaration of Barry Wolfson**

I, Barry Wolfson, do hereby declare as follows:

1. My name is Barry Wolfson, and I reside at 176 Griswold Drive, West Hartford, CT 06119.
2. I am making this declaration on behalf of James F. Allsup, the named inventor on the above-referenced patent application.
3. I am familiar with all aspects of the long-term disability insurance industry and have worked in this industry for over 37 years.
4. I presently am retired. From approximately December, 20<sup>th</sup> to the present. I was employed by Aetna December 20, 1965.
5. My duties at Aetna included managing the Social Security Advocacy and overpayment recovery programs for Aetna's Long Term Disability operations.
6. During my career at Aetna, for 10 years I was involved in the collection or recovery of SSDI overpayments from our insured.
7. It was my experience that once the insured received the SSDI payment, it was more difficult for us to recover the overpaid amount. Once the insured took

possession of the money, he or she would spend the money or be reluctant to pay the money over to an insurance company.

8. There was a long felt need in the long term disability insurance industry for a process of recovering the overpaid amounts after the insured received the SSDI benefit but before the insured disposed of the money or refused to forward the money to his or her private insurance carrier.

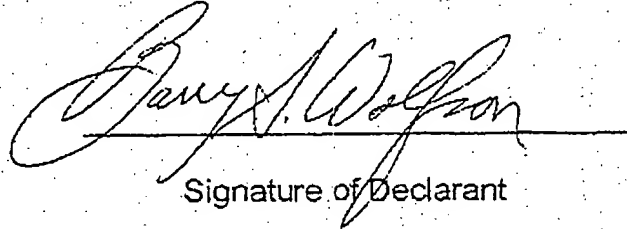
9. I became familiar with Mr. Allsup's new process in late 1999 or early 2000 when Aetna retained Allsup, Inc to provide overpayment recovery services. Prior to that time, I knew of no other such service available to the long-term disability insurance industry.

10. Once Aetna retained Allsup, Inc. to employ its automated overpayment recovery service, Aetna realized an increase in dollar amounts collected and a decrease in time from the award of the SSDI benefit to the recovery of the overpaid amount.

11. It is my opinion that Mr. Allsup's automated overpayment recovery system dramatically improves the ability of private insurance carriers to collect overpaid monies owed to them because it is the first and only system I am aware of that provides for pre-approved electronic recovery of the overpaid amount from a designated bank account before the insured can dispose of the funds or decide not to refund the overpaid amount to the insurance carrier.

12. It is my opinion that Mr. Allsup's automated overpayment recovery system met a long felt need in the industry for increasing the amount of money recovered and decreasing the time of recovery.

I further declare under penalty of perjury pursuant to the laws of the United States of America that the foregoing is true and correct, and that this declaration was executed by me on February 22, 2003 at (West Hartford, CT).

A handwritten signature in cursive script, reading "Gary M. Wolfson", is written over a solid horizontal line. The signature is fluid and stylized, with the first name "Gary" being the most prominent part of the script.

Signature of Declarant



APPLICANT: James F. Allsup  
SERIAL NO.: 09/629,323  
FILED: July 31, 2000  
EXAMINER: Alexander Kalinowski  
DOCKET NO.: 7554  
GROUP ART UNIT: 3626  
FOR: Long Term Disability Overpayment Recovery Service With Post Award Service and Savings Program and Financial Assistance

**Supplemental Affidavit of James F. Allsup Under 37 C.F.R. §1.132**

James F. Allsup, being duly sworn, does hereby depose and say as follows:

1. I am the inventor of the Long Term Disability Overpayment Recovery Service With Post Award Service and Savings Program and Financial Assistance described and claimed in application Serial No. 09/629,323 filed July 31, 2000. I own all rights, title and interest in the application and invention and have not assigned any rights to another party.

2. I am the founder, owner and Chief Executive Officer of Allsup, Inc. Allsup, Inc. ("Allsup") is the exclusive user of the Long Term Disability Overpayment Recovery Service With Post Award Service and Savings Program and Financial Assistance described and claimed in application Serial No. 09/629,323.

3. I previously submitted the Affidavit of James F. Allsup Under 37 C.F.R. §132 in this case. I will refer to that Affidavit as my first Affidavit. This is a supplemental affidavit to address issues raised by the Examiner in the office action dated December 5, 2003 and to update the data that shows the

overwhelming commercial success of the method that is the subject matter of my patent application and to introduce additional declarations in support of my patent application.

4. Based upon my background and experience, which I set out in greater detail in my first Affidavit, I consider myself to be one skilled in the art to which my invention pertains.

5. As I set out in Paragraphs 5 and 6 of my first Affidavit, initially Allsup's services focused primarily on Long-Term Disability ("LTD") insurance carriers and self-insured employers who insured or extended LTD benefits to employees, and I was aware, generally, that most LTD benefit plans allow the plan to reduce the amount of LTD benefits paid to a disabled individual, by the amount of SSDI the individual receives. However, as my experience with these entities, their plans and referred individuals developed, I also became aware that not only did the terms of the LTD benefit plans typically allow for the reduction of the ongoing LTD benefit, they also required the repayment of past LTD benefits when SSDI was awarded by SSA retroactively.

6. Initially, my company began to provide reminders to the individual that if and when SSDI was awarded, the individual would be obligated to repay any overpayment to the LTD carrier or self-insured employer. Subsequently, in approximately 1986, Allsup included this information both verbally and in writing.

7. Allsup's involvement was limited to informing the individual that the LTD carrier or self-insured employer would contact the individual directly and would provide them with the exact amount to be repaid. We also would inform

the LTD carrier or self-insured employer of the award, the date the individual became entitled to SSDI benefits and of the specific SSDI benefit amount, so that the LTD carrier or self-insured employer could calculate the overpayment amount and proceed with its own recovery efforts from the individual.

8. As I set out in Paragraph 8 of my first Affidavit, this type of recovery effort amounted to a "back-end" approach by the LTD carrier or self-insured employer to recovering overpayments (i.e., the principal efforts and actions to recover the overpayment occurred only after the award of SSDI and the payment of retroactive benefits, and was conducted primarily by the LTD carrier or self-insured employer).

9. This "back-end" approach had significant drawbacks that resulted in limited success in recovering overpayments. Most notably, as I described in Paragraph 11 of my first Affidavit, this type of "back-end" approach allowed the disabled individual to take "mental ownership" of the retroactive payment and the individual was reluctant to disgorge the overpayment, or the individual would spend the money.

10. Beginning in approximately 1991, Allsup employed an actual overpayment recovery service, as set out in paragraph 14 of my first Affidavit. This service is a "manual" process for expediting overpayment recovery. This "manual" system is the subject matter of the cited reference *Allsup Inc.'s Overpayment Recovery Service* that was used by my company in approximately 1995-1996.

11. In summary, and as set out in our brochure, the individual was informed of their repayment obligation. The LTD carrier or employer notified Allsup of the overpayment amount and Allsup notified the individual. The individual then signed a check payable to the LTD carrier or employer for the overpayment amount and sent it to Allsup. Allsup in turn forwarded the payment on to the LTD carrier or self-insured employer. This process is addressed in more detail in Paragraph 15 of my first Affidavit.

12. Although the "manual" process was an improvement over the "back-end" system, it still suffered from the major drawback of allowing the claimant to get possession of the overpayment and spend it or refuse to issue the check.

13. Because our own brochure disclosed a system that I was trying to replace, it certainly does not render obvious my claimed invention. That system did not, and could not, suggest the specific critical steps of obtaining preauthorization from the disabled individual for a direct recovery of the overpaid benefits from a deposit account, after a direct deposit of an SSDI award into the deposit account, establishing the direct deposit of an SSDI benefit into the deposit account by the SSA, or electronically recovering from the deposit account a preauthorized, predetermined amount of long-term disability benefits, immediately after the deposit of SSDI by SSA and the disabled individual's receipt of SSDI payments.

14. As I set out in Paragraph 32 of my first Affidavit, my company did not implement a commercial embodiment of my new invention until 1999. The

processes of that invention were not obvious in view of our own brochure, and it continued to take me nearly four years after the publication of that particular brochure to develop a commercially successful electronic system of recovery.

15. Allsup still employs a "manual" version of overpayment recovery as a back up to the electronic system or for use in some limited cases, where the client company or the SSDI recipient opts out of the automated recovery system. However, due to the overwhelming success of the new system that is the subject matter of my patent, the old "manual" system has nearly been replaced, as set out in Paragraphs 25 to 27 and Paragraph 54, below.

16. I have reviewed the SSDC brochure cited by the Examiner in the December 5, 2003 office action. In my opinion, the information included in the SSDC (29 October 1993) reference cited by the Examiner does not pertain to an actual SSDC recovery service. The terms "Coordination of overpayment recoveries resulting from SSDIB awards" does not indicate to me what activity SSDC was engaged in.

17. The opinion I express in Paragraph 16, above, also is based upon the fact that, around the time I became aware of the SSDC brochure (circa 1993), I was well aware of the business activity of competitors in this industry. To the best of my knowledge, SSDC was not operating any structured overpayment recovery system.

18. As one skilled in the art, it is my opinion that the SSDC brochure does not teach or suggest my novel system. The language "Coordination of overpayment recoveries resulting from SSDIB awards" does not disclose any

method of "coordination" employed by SSDC; it does not even hint at a method of recovering overpayments. The only thing suggested by the SSDC brochure is that claimants are required to repay overpaid LTD benefits, a requirement of many standard LTD insurance policies.

19. With specific reference to my claimed invention, SSDC does not teach or suggest, in any manner, the specific novel steps of obtaining from the disabled individual preauthorization for direct recovery of the overpaid benefits from a deposit account, after a direct deposit of the SSDI award into the deposit account, establishing the direct deposit of an SSDI benefit by the SSA, or electronically recovering from the deposit account a preauthorized, predetermined amount of long-term disability benefits, immediately after the award of SSDI by SSA and the disabled individual's receipt of SSDI payments.

20. Over six years passed between the time I first became aware of the SSDC brochure and when we first commercialized my new invention. If SSDC had taught or suggested my new method, it would not have taken over six years to invent a commercial embodiment.

21. The Allsup brochure and the SSDC brochure do not teach or suggest my electronic or automated overpayment recovery system. I have reviewed Pollin's U.S. Patent No. 5,727,249 cited by the Examiner in the office action. As one skilled in the art, in general, and specifically as the inventor of the process claimed in the pending application, I would not have looked to this patent, or followed the teachings of this patent, or combined the teachings of this

patent with the limited disclosures in the Allsup and SSDC brochures, to address the problems associated with the "back-end" method or the "manual" method.

22. Overall, Pollin describes a method for generating and endorsing a check. The check is printed and endorsed by a debt collector upon authorization by the payer. Pollin does not solve the problems I was looking to solve, since it is just another way of generating a check and, therefore, no improvement over the "manual" system. In fact, Pollin is similar to the "back-end" method or "manual" overpayment recovery system in that it requires the payer to initiate payment by check or draft drawn on a funded account. As a result, the money is in the account and the payer has "mental ownership" of the funds and can spend the money on something else or refuse payment. Pollin certainly does not teach or suggest a system wherein the overpayment is recovered instantly upon deposit by the SSA before the claimant takes "mental ownership" of the overpaid funds.

23. The novel system of my invention continues to enjoy substantial commercial success, related directly to its ability to increase the overall amounts of recovered overpayments and reduce the time for recovery.

24. The following is a chart that supplements the chart set out in Paragraph 33 of my first Affidavit, showing the increase in recovery percentages and dollars recovered for all overpayment recovery service clients that we have experienced after commercial introduction of the process in November, 1999:

**TOTAL OVERPAYMENT RECOVERY SERVICE**  
(Recovery Percentages)

Year	Number of Recoveries Attempted	Number of Recoveries Made	% of Number Recovered	Dollar Amount of Recoveries Attempted	Dollar Amount of Recoveries Made	% of Dollars Recovered
1999	324	269	83.02%	\$3,844,244	\$3,220,635	83.78%
2000	1334	1160	86.96%	\$16,389,430	\$13,774,984	84.05%
2001	1869	1694	90.64%	\$22,498,021	\$19,847,580	88.22%
2002	2634	2340	88.84%	\$33,954,246	\$28,983,975	85.35%
2003	3946	3387	85.83%	\$47,938,686	\$40,551,337	84.59%

25. The following chart supplements the chart of Paragraph 37 of my first Affidavit, and summarizes the decrease in the number of days until overpayment recovery after initiation of the overpayment recovery employing the system of the present invention:

**OVERPAYMENT RECOVERY SERVICE**  
(Average Days to Recovery)

Year	Manual Method Clients		Electronic Method Clients		Weighted Average Days to Recovery
	Number of Recoveries Made	Average Days to Recovery	Number of Recoveries Made	Average Days to Recovery	
1999	197	23.1	72	9.7	19.5
2000	154	22.4	1006	9.6	11.3
2001	167	24.7	1527	6.8	8.6
2002	168	31.1	2172	11.4	12.8
2003	55	25.6	3332	14.6	14.8

26. One significant point illustrated by the chart of Paragraph 25 is that the number of recoveries made through the use of the old "manual" system has



decreased significantly. Due to its efficiencies and significant improvement in recoveries, the novel system is replacing the "manual" system to a significant extent.

27. The following chart supplements the chart set out in Paragraph 38 of my first Affidavit and shows a breakdown of the dollar amount of recoveries made, comparing the amounts collected when the represented individual repaid the overpaid amount directly (Manual Method Clients) vs. the new electronic overpayment recovery system (Electronic Method Clients).

Year	Dollar Amount Of Recoveries Made		
	Manual Method Clients	Electronic Method Clients	Total Dollar Amount of Recoveries Made
1999	\$2,271,215	\$949,420	\$3,220,635
2000	\$1,757,748	\$12,017,236	\$13,774,984
2001	\$2,074,304	\$17,773,276	\$19,847,580
2002	\$1,934,180	\$27,049,795	\$28,983,975
2003	\$674,249	\$39,877,088	\$40,551,337
Total	\$8,711,696	\$97,666,815	\$106,378,511

28. The chart in Paragraph 27 illustrates the tremendous commercial success my invention has met since its introduction. The total amount of recoveries made per year from 1999 to 2003 grew by over \$37 million. Approximately 92% of the total dollars recovered were for electronic overpayment recovery system clients. Only approximately 8% of the recoveries were made for manual method clients. This demonstrates the superiority of my

invention over prior methods and the replacement of prior methods by my new invention.

29. In my opinion, the continued commercial success of my electronic overpayment recovery service is primarily attributable to the fact that (a) direct deposit from SSA to a claimant account is established for the claimant; (b) the claimant signed preauthorization allows for electronic recovery of a predetermined overpayment amount from the designated account immediately after the direct deposit, but before the recipient takes "mental ownership" of the funds; (c) the service results in an increase in the amount of money recovered; (d) the service decreases the average days to recovery; and (e) the service increases LTD carrier or self-insured employer overpayment recovery rates.

30. Allsup is the only company authorized to use my overpayment recovery system. However, I believe that there now are at least three competitors who have tried to copy our system. It remains my opinion these competitors are copying my electronic overpayment recovery service because it is groundbreaking and has significantly changed the industry.

31. Attached to this Affidavit, as Exhibit A, is the Declaration of Mr. Jay Barriss, (referred to hereinafter as "Barriss Decl."). This declaration further supports the statements included in my Affidavits and Mr. Wolfson's Declarations, I will discuss below.

32. Mr. Barriss also is familiar with the long-term disability insurance industry and has worked in the industry for over 11 years. (Barriss Decl. ¶ 3). Mr. Barriss was employed by Aetna Life Insurance Company from December, 1998

to June, 2003. (Barriss Decl. ¶ 4). At Aetna, Mr. Barriss was involved in the preparation of financial statements, product pricing and reserve valuation. (Barriss Decl. ¶ 5). As a result of his job at Aetna, Mr. Barriss was aware of the necessity of recovering overpaid disability benefits from their insured. (Barriss Decl. ¶ 6). Mr. Barriss confirms the problems associated with recovery of overpayments that existed in the industry prior to the instant invention. (Barriss Decl. ¶ 7). Mr. Barriss confirms that there was a long-felt need in the industry for a process of recovering the overpaid amounts after the insured received the SSDI benefit but before the insured disposed of the money. (Barriss Decl. ¶¶ 7, 8 & 12).

33. Mr. Barriss became familiar with my invention in December, 1999 when Aetna retained Allsup to provide overpayment recovery services. (Barriss Decl. ¶ 9). Prior to that time, Mr. Barriss knew of no other such service available to the long-term disability insurance industry. (Barriss Decl. ¶ 9) With my system, Aetna realized an increase in dollar amounts collected and a decrease in the time from the award of the SSDI benefit to the recovery of the overpaid amount. (Barriss Decl. ¶ 10). In his opinion, my automated overpayment recovery system helped improve Aetna's ability to collect overpaid monies owed to them because it provides for pre-approved electronic recovery of the overpaid amount from a deposit account after the SSA deposits the benefit. (Barriss Decl. ¶ 11).

34. It is Mr. Barriss' opinion that my automated overpayment recovery system met a long felt need in the industry for increasing the amount of money recovered and decreasing the time of recovery. (Barriss Decl. ¶ 12).

35. Also attached to this Affidavit, as Exhibit B, is the Supplemental Declaration of Mr. Barry Wolfson (referred to hereinafter as "Supp. Wolfson Decl."), that further supports the statements included in Mr. Wolfson's first Declaration and also addresses his understanding of the SSDC brochure and SSDC's services.

36. Based upon his over 35 years of experience, Mr. Wolfson is familiar with all aspects of the long-term disability insurance industry. (Supp. Wolfson Decl. ¶ 4). Mr. Wolfson presently works as a consultant to the industry. (Supp. Wolfson Decl. ¶5) Mr. Wolfson was employed by Aetna from 1965 to the end of 2002. In 1983 Mr. Wolfson started Aetna's Social Security Advocacy Program, which hired skilled Social Security representatives to assist long-term disability claimants in obtaining Social Security Benefits. (Supp. Wolfson Decl. ¶6).

37. Mr. Wolfson has considerable expertise in the long term disability claims practice and recovery of long-term disability benefit overpayments. (Supp. Wolfson Decl. ¶7) Mr. Wolfson has reviewed the SSDC brochure cited by the Examiner and is familiar with SSDC and the services SSDC offered around 1993. (Supp. Wolfson Decl. ¶ 8). From the early 1990s until 2002 Aetna was the insurance carrier for the State of Michigan, providing long-term disability benefits and claims services. (Supp. Wolfson Decl. ¶ 9). At the same time, SSDC was retained by the State of Michigan to obtain benefits for its employees from the Social Security Administration. (Supp. Wolfson Decl. ¶ 10). Through his access to records and statistics, Mr. Wolfson was aware of the fact that the State of

Michigan had a significant problem with recovering overpaid benefits from the insured after an award of SSDI. (Supp. Wolfson Decl. ¶ 11).

38. Mr. Wolfson does not think SSDC was engaged in any system for recovering overpaid benefits. (Supp. Wolfson Decl. ¶ 12). It is Mr. Wolfson's belief that if SSDC had or knew of any type of method to recover overpaid disability benefits in the early 1990s it would have marketed that product to the State of Michigan in response to those significant problems. (Supp. Wolfson Decl. ¶ 13). Furthermore, it is Mr. Wolfson's opinion that if the SSDC brochure had indicated or suggested that such a service was available, one knowledgeable about LTD claim practices would have requested SSDC to develop such a program to respond to the needs of the State of Michigan. (Supp. Wolfson Decl. ¶13).

39. According to Mr. Wolfson, the SSDC brochure does not indicate or suggest to one who is knowledgeable about LTD practices, any method or system for recovering overpaid benefits and that the brochure certainly does not indicate that there is an electronic overpayment recovery service or any program that includes all the complex steps that were developed in my system. (Supp. Wolfson Decl. ¶14). According to Mr. Wolfson, as one familiar with and knowledgeable about LTD claim practices, the quote "Coordination of overpayment recoveries resulting from SSDIB awards" contained in the SSDC brochure does not suggest any method of recovering overpayments and, in fact, he finds the statement to be vague and unclear as to what the statement was

intended to mean or if SSDC was offering any service. (Supp. Wolfson Decl. ¶ 15).

40. To the best of his knowledge, SSDC's only participation in the recovery of overpayments was to emphasize to the claimant his or her obligation to repay the overpaid benefit to the carrier and SSDC took no active role in a recovery. Mr. Wolfson believes the statement "Coordination of overpayment recoveries resulting from SSDIB awards" refers to that limited activity. (Supp. Wolfson Decl. ¶ 16). Mr. Wolfson's statements confirm my own understanding, as set out in paragraph 9 of my first Affidavit.

41. Mr. Wolfson confirms that his assumptions about the meaning of the statement "Coordination of overpayment recoveries resulting from SSDIB awards" comes from his knowledge of SSDC business at the time because an objective reading of the brochure, by itself, teaches or suggests nothing substantive. (Supp. Wolfson Decl. ¶ 16).

42. Mr. Wolfson again confirms the problems associated with recovering overpaid benefits. While some overpaid benefits were entirely repaid, a significant number were only partially repaid or never repaid. (Supp. Wolfson Decl. ¶ 17). He again emphasized the need in the industry for a method of recovering overpaid amounts. (Supp. Wolfson Decl. ¶ 18).

43. Mr. Wolfson confirms that this need is still felt in the industry by those insurance carriers who have not subscribed to our method. For example, in 2002, Mr. Wolfson attended a meeting with the SSA along with nine or ten of the largest LTD carriers to address the industry-wide problem of non-recovered

overpaid benefits. Most of the participants at the meeting were not participating in the Allsup overpayment recovery program at the time. (Supp. Wolfson Decl. ¶ 19). I believe it is important to note that since the meeting with the SSA, several of the participants have subscribed to, or are seriously considering, our program. (Supp. Wolfson Decl. ¶ 20).

44. Mr. Wolfson points out, and I agree, the fact that the largest LTD carriers in the industry could not develop a satisfactory method of overpayment recovery on their own, points out the novelty and non-obviousness of my invention. (Supp. Wolfson Decl. ¶ 20).

45. It is Mr. Wolfson's opinion that if there was any indication in the SSDC brochure, or any other vendor's brochures or marketing materials, that such an automated overpayment recovery system existed, that system would have been developed before mine to meet the need for such overpayment recovery service in the industry. (Supp. Wolfson Decl. ¶ 21). Mr. Wolfson confirms that I was the first to develop a successful, automated overpayment recovery service that meets the needs of the industry. (Supp. Wolfson Decl. ¶ 22).

46. Also attached to this Affidavit, as Exhibit C, is the Declaration of Mr. Scott Ritchie (referred to hereinafter as "Ritchie Decl.") This declaration also supports the statements in my two affidavits, Mr. Barriss's declaration and Mr. Wolfson's two declarations.

47. Mr. Ritchie is familiar with the long-term disability insurance industry and has worked in the industry for over 11 years. (Ritchie Decl. ¶ 3). Mr.

Ritchie has been employed by Standard Insurance Company from approximately July, 1992 to the present. (Ritchie Decl. ¶4). His duties at Standard Insurance Company have included quality assurance, claim auditing, oversight of Social Security policy and procedure programs and benefit/resource team supervision (Ritchie Decl. ¶5). During his career at Standard Insurance Company Mr. Ritchie became aware of the necessity of recovering overpaid disability benefits from their insured. (Ritchie Decl. ¶6).

48. Mr. Ritchie has experienced the same problems in the industry I recognized and solved. It has been Mr. Ritchie's experience that once his company's insured receives the SSDI payment, it is challenging for the company to recover the overpaid amount. The insured may be reluctant to repay the money to an insurance company. It has also been his experience that the process of pursuing recovery of LTD overpayments requires a great deal of communication and follow up on the part of claims handling staff. It is a labor intensive and time consuming process. (Ritchie Decl. ¶7).

49. Mr. Ritchie believes there is room for improvement of overpayment collection processes within the long-term disability insurance industry. He points out as an example, that a process such as mine that comprises recovering the overpaid amounts after the insured receives the retroactive SSDI benefit but before the insured spends the money or simply refuses to repay the overpaid benefits to his or her private insurance carrier is of much value to the industry. (Ritchie Decl. ¶8).



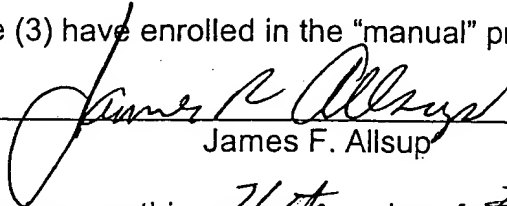
50. Mr. Ritchie has been familiar with my electronic overpayment recovery process since July 2001, when Standard Insurance Company retained Allsup, Inc. to recover overpaid benefits. Prior to that time, he knew of no other such service available to the long-term disability insurance industry. (Ritchie Decl. ¶9).

51. Once Standard Insurance Company retained Allsup, Inc. to employ its automated overpayment recovery service, Standard Insurance Company soon realized an increase in dollar amounts recovered and a decrease in time from the award of the SSDI benefit to the recovery of the overpaid amount. (Ritchie Decl. ¶10).

52. It is Mr. Ritchie's opinion that my automated overpayment recovery system helped improve his company's ability to recover overpaid monies owed to the company because it provides for pre-approved electronic recovery of the overpaid amount from a deposit account after the SSA deposits a benefit but before the insured can spend the money or decide not to refund the overpaid amount to the insurance carrier. (Ritchie Decl. ¶11).

53. It also is Mr. Ritchie's opinion that my automated overpayment recovery system met a need in the industry for increasing the amount of money recovered and decreasing the time of recovery. (Ritchie Decl. ¶12).

54. Because my system has met this long felt need in the industry, Allsup, Inc.'s overpayment recovery services, particularly the electronic overpayment recovery service, continue to grow. Presently, the number of companies that have engaged our company to perform overpayment recovery services has grown to a total of sixty-six (66) companies. It is significant to note that sixty-three (63) of these companies have chosen the electronic overpayment recovery service, while only three (3) have enrolled in the "manual" process.

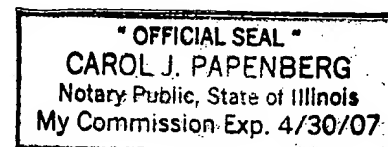
  
James F. Allsup

Sworn and subscribed to before me this 26th day of February

2004.

  
Notary Public

My Commission expires: 4-30-07



APPLICANT: James F. Allsup  
SERIAL NO.:  
FILED:  
EXAMINER: Alexander Kalinowski  
DOCKET NO.: 7554  
GROUP ART UNIT: 3626  
FOR: Long Term Disability Overpayment Recovery Service With Post  
Award Service And Savings Program and Financial Assistance

**Declaration of Jay Barriss**

I, Jay Barriss, do hereby declare as follows:

1. My name is Jay Barriss, and I reside at 87 Pheasant Crossing,  
Glastonbury CT 06033.
2. I am making this declaration on behalf of James F. Allsup, the named  
inventor on the above-referenced patent application.
3. I am familiar with the long-term disability insurance industry and have  
worked in this industry for over 11 years.
4. From approximately Dec 1998 to June 2003, I was employed by Aetna  
Life insurance company
5. My duties at Aetna included financial statement preparation, product  
pricing and reserve valuation
6. During my career at Aetna I was made aware of the necessity of  
recovering overpaid disability benefits from our insured.
7. It has been my experience that once our insured receives the SSDI  
payment, it is difficult to recover the overpaid amount.

8. There was a long felt need in the long term disability insurance industry for a process of quickly recovering the overpaid amounts after the insured receives the retroactive SSDI benefit.

9. I have been familiar with Mr. Allsup's electronic overpayment recovery process since December 1999, when Aetna retained Allsup, Inc. to recover overpaid benefits. Prior to that time, I knew of no other such service available to the long-term disability insurance industry.

10. Once Aetna retained Allsup, Inc. to employ its automated overpayment recovery service, it soon realized an increase in dollar amounts recovered and a decrease in time from the award of the SSDI benefit to the recovery of the overpaid amount.

11. It is my opinion that Mr. Allsup's automated overpayment recovery system helped improve Aetna's ability to recover overpaid monies owed to them because it provides for pre-approved electronic recovery of the overpaid amount from a deposit account after the SSA deposits a benefit.

12. It is my opinion that Mr. Allsup's automated overpayment recovery system met a long felt need in the industry for increasing the amount of money recovered and decreasing the time of recovery.

I further declare under penalty of perjury pursuant to the laws of the United States of America that the foregoing is true and correct, and that this declaration was executed by me on January 13, 2004 at Hartford, CT.

  
Jay Barriss

APPLICANT: James F. Allsup  
SERIAL NO.:  
FILED:  
EXAMINER: Alexander Kalinowski  
DOCKET NO.: 7554  
GROUP ART UNIT: 3626  
FOR: Long Term Disability Overpayment Recovery Service With Post  
Award Service and Savings Program and Financial Assistance

### **Supplemental Declaration of Barry Wolfson**

I, Barry Wolfson, do hereby declare as follows:

1. My name is Barry Wolfson, and I reside at 176 Griswold Drive, West Hartford, Connecticut 06119.
2. I am making this second declaration on behalf of James F. Allsup, the named inventor on the above-referenced patent application.
3. This declaration is intended to supplement the Declaration of Barry Wolfson dated February 22, 2003. Nothing in this declaration changes any statement or opinion included in my first declaration.
4. As I stated in my first declaration, I am familiar with all aspects of the long-term disability insurance industry and have worked in this industry for over 35 years.
5. I presently work as a consultant in this industry. I have occasionally worked as a consultant to Allsup, Inc. since May 2003.
6. I worked for Aetna from 1965 until I retired at the end of 2002. In 1983 I started Aetna's Social Security Advocacy Program, which hired skilled Social

Security representatives (attorneys and non-attorneys) to assist Long Term Disability claimants in obtaining Social Security Disability benefits. This process involved the recovery of any overpayments that resulted after the Social Security award was received.

7. Based upon my 35 years of experience in the LTD insurance industry, I would consider myself to have considerable expertise in Long Term Disability insurance claim practices, including the recovery long-term disability benefit overpayments.

8. I have reviewed the SSDC brochure cited by the patent examiner. I am familiar with SSDC and the services it offered around 1993.

9. From the early 1990s until 2002, Aetna was the insurance carrier for the State of Michigan, providing Long Term Disability benefits and claim services.

10. At the same time SSDC, was retained by the State of Michigan to obtain benefits for its employees from the Social Security Administration. Since the State of Michigan was a client of both Aetna and SSDC, I am very familiar with SSDC's services, particularly around 1993.

11. The State of Michigan had a significant problem with recovering overpaid benefits from the insured after an award of SSDI. I was familiar with the extent of this problem because I had access to the statistics and records through our Grand Rapids office.

12. Although SSDC did a good job of securing SSDI benefits for claimants, to the best of my knowledge, it was not engaged in any system for recovering overpaid benefits after securing the benefit.

13. It is my opinion that, if SSDC had or knew of any system or method of recovering overpaid long-term disability benefits in the early 1990s, it would have marketed that product to the State of Michigan in response to the significant problem the state was having recovering Social Security overpayments.

Similarly, if SSDC's own brochure had indicated or suggested that such a service was available, one knowledgeable with LTD claim practices would have requested SSDC to develop such a program to respond to the State of Michigan's needs.

14. In my opinion, the SSDC brochure does not indicate or suggest to one who is knowledgeable with LTD claim practices, any method or system for recovering overpaid benefits. It certainly does not indicate that there is an electronic overpayment recovery service or any program that includes all of the complex steps that were developed in Mr. Allsup's novel system.

15. As one who is familiar and knowledgeable of LTD industry claim practices, the quote, "Coordination of overpayment recoveries resulting from SSDIB awards" contained in the SSDC brochure does not suggest to me any method of recovering overpayments. I found the brochure vague in that it was not clear what the term "Coordination" was intended to mean or if SSDC was offering any particular service.

16. To the best of my knowledge, SSDC's only participation in the recovery of overpayments was to emphasize to the claimant his or her obligation to repay the overpaid benefit to the carrier, for example, to Aetna, and that SSDC took no active role in a recovery. I believe that the statement "Coordination of

overpayment recoveries resulting from SSDIB awards" refers to that limited activity. However, this assumption is based upon my knowledge of SSDC's business practices at the time, and not from an objective reading of the brochure, which, by itself, teaches or suggests nothing substantive.

17. It was the responsibility of Aetna's Claim Department to recover Social Security overpayments directly from the LTD claimant after receipt of the SSDI award. While our claimants repaid some overpayments in their entirety, in a lump sum, a significant number of overpayments were only partially repaid, or required Aetna to withhold future LTD benefits. It took years to recover some overpayments and some were never recovered.

18. I cannot overemphasize the extent of the need in the industry for a method of recovering overpaid benefits.

19. In approximately 2002, I participated in a meeting with the SSA, along with representatives of nine or ten of the largest LTDI carriers, to address the industry-wide problem of non-recovered overpaid benefits and to determine if there were any steps the SSA could take to facilitate such recoveries. Most of the participants were not participating in the Allsup overpayment system at the time of the meeting.

20. It is my understanding that subsequent to the meeting with the SSA, several of the participants have since subscribed to, or are seriously considering, the Allsup overpayment recovery system. I think the fact that the largest LTDI carriers in the industry could not develop a satisfactory method on their own



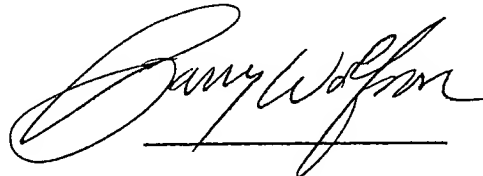
points to the novelty and non-obviousness of Mr. Allsup's invention, as well as its commercial value.

21. As one with expertise and knowledge of the LTD insurance industry and its claim practices including overpayment recovery, it's my opinion that there was a need for an Overpayment Recovery Service in the LTD insurance industry. If there was any indication that such an automated overpayment recovery process or service existed in SSDC's or any other Social Security vendor's brochures, or in marketing materials offered by LTD insurance carriers, that overpayment recovery service would have been developed, marketed, and utilized well before the development of Mr. Allsup's unique electronic overpayment recovery service.

22. However, to the best of my knowledge, Mr. Allsup was the first to develop a successful automated overpayment recovery service that meets the needs of the industry.

I further declare under penalty of perjury pursuant to the laws of the United States of America that the foregoing is true and correct, and that this declaration was executed by me on January 12, 2004 at West Hartford, Connecticut.

Barry Wolfson

A handwritten signature in cursive script, reading "Barry Wolfson", written over a horizontal line.

**APPLICANT:** James F. Allsup  
**SERIAL NO.:**  
**FILED:**  
**EXAMINER:** Alexander Kalinowski  
**DOCKET NO.:** 7554  
**GROUP ART UNIT:** 3626  
**FOR:** Long Term Disability Overpayment Recovery Service With Post Award Service And Savings Program and Financial Assistance

**Declaration of Scott Ritchie**

I, Scott Ritchie, do hereby declare as follows:

1. My name is Scott Ritchie, and I reside at Portland OR.
2. I am making this declaration on behalf of James F. Allsup, the named inventor on the above-referenced patent application.
3. I am familiar with the long-term disability insurance industry and have worked in this industry for over 11 years.
4. From approximately 7/92 to the present, I have been employed by Standard Insurance Company.
5. My duties at Standard Insurance Company have included quality assurance, claim auditing, oversight of Social Security policy and procedure programs and benefit/resource team supervision
6. During my career at Standard Insurance Company I became aware of the necessity of recovering overpaid disability benefits from our insured.
7. It has been my experience that once our insured receives the SSDI payment, it is challenging for us to recover the overpaid amount. The insured

may be reluctant to repay the money to an insurance company. It has also been my experience that the process of pursuing recovery of LTD overpayments requires a great deal of communication and follow up on the part of claims handling staff. It is a labor intensive and time consuming process.

8. There is room for much improvement of overpayment collection processes within the long term disability insurance industry. For example, a process of recovering the overpaid amounts after the insured receives the retroactive SSDI benefit but before the insured spends the money or simply refuses to repay the overpaid benefits to his or her private insurance carrier would be of much value to our industry.

9. I have been familiar with Mr. Allsup's electronic overpayment recovery process since July 2001, when Standard Insurance Company retained Allsup, Inc. to recover overpaid benefits. Prior to that time, I knew of no other such service available to the long-term disability insurance industry.

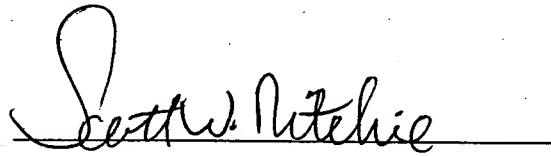
10. Once Standard Insurance Company retained Allsup, Inc. to employ its automated overpayment recovery service, it soon realized an increase in dollar amounts recovered and a decrease in time from the award of the SSDI benefit to the recovery of the overpaid amount.

11. It is my opinion that Mr. Allsup's automated overpayment recovery system helped improve our ability to recover overpaid monies owed to our company because it provides for pre-approved electronic recovery of the overpaid amount from a deposit account after the SSA deposits a benefit but before the insured

can spend the money or decide not to refund the overpaid amount to the insurance carrier.

12. It is my opinion that Mr. Allsup's automated overpayment recovery system met a need in the industry for increasing the amount of money recovered and decreasing the time of recovery.

I further declare under penalty of perjury pursuant to the laws of the United States of America that the foregoing is true and correct, and that this declaration was executed by me on February 12, 2004 at Portland, Oregon.

A handwritten signature in cursive script, reading "Scott W. Ritchie", is written over a horizontal line.

Signature of Declarant

**APPLICANT:** James F. Allsup  
**SERIAL NO.:** 09/629,323  
**FILED:** July 31, 2000  
**EXAMINER:** Alexander Kalinowski  
**DOCKET NO.:** 7554  
**GROUP ART UNIT:** 3626  
**FOR:** Long Term Disability Overpayment Recovery Service With Post Award Service and Savings Program and Financial Assistance

**Third Affidavit of James F. Allsup Under 37 C.F.R. §1.132**

James F. Allsup, being duly sworn, does hereby depose and say as follows:

1. I am the inventor of the Long Term Disability Overpayment Recovery Service With Post Award Service and Savings Program and Financial Assistance described and claimed in application Serial No. 09/629,323 filed July 31, 2000. I own all rights, title and interest in the application and invention and have not assigned any rights to another party.
2. I am the founder, owner and Chief Executive Officer of Allsup, Inc. Allsup, Inc. ("Allsup") is the exclusive user of the Long Term Disability Overpayment Recovery Service With Post Award Service and Savings Program and Financial Assistance described and claimed in application Serial No. 09/629,323.
3. I previously submitted the Affidavit of James F. Allsup Under 37 C.F.R. §1.132 and the Supplemental Affidavit of James F. Allsup Under 37 C.F.R. §1.132 in this case. I will refer to the Affidavit of James F. Allsup Under 37 C.F.R. §1.132 as my first Affidavit and the Supplemental Affidavit of James F.

Allsup Under 37 C.F.R. §1.132 as the Supplemental Allsup Affidavit. This third Affidavit will address issues raised by the Examiner in the office action dated November 3, 2004, and updates the data in my prior two Affidavits that show the continued commercial success of the method that is the subject matter of my patent application.

4. Based upon my background and experience, which I set out in greater detail in my previous two Affidavits, I consider myself to be one skilled in the art to which my invention pertains.

5. I repeat and incorporate herein by reference my comments regarding the Allsup brochure and SSDC included in the Supplemental Allsup Affidavit, paragraphs 10 through 21. I reiterate, as one skilled in the art, that the Allsup brochure and SSDC do not teach or suggest all of the steps or elements of my claimed invention.

6. I have reviewed Richman et al's U.S. Patent No. 6,625,582 ("Richman") cited by the Examiner in the office action. It is my opinion, and I believe the facts will support, if necessary, that I invented my claimed method before the March 12, 1999 filing date of the Richman patent.

7. Even if Richman is prior art, which I am not conceding it is, the patent is not directed toward awards of SSDI but is directed to the use of retirement funds. This is an important distinction.

8. The SSA recognizes SSDI and SSA retirement benefits as totally different benefits. For example, SSDI benefits stop when SSA retirement benefits begin.

9. As one skilled in the art, in general, and specifically as the inventor of the process claimed in the pending application, if the Richman patent was prior art, I would not have looked to this patent, or followed the teachings of this patent to arrive at my invention.

10. My invention is directed to a system for the recovery of an overpayment from a retroactive award of SSDI, whereas, the Richman system is directed to the use of prospective deposits of a retirement benefit. To the best of my knowledge, retroactive awards of SSA retirement benefits can occur only under extraordinary circumstances.

11. In my opinion, one skilled in the art would not look to a plan that is directed to a payment out of a prospective retirement benefit to develop a method of recovering an overpaid disability benefit from a retroactive award of SSDI.

12. One important distinction between my invention and the system disclosed in the Richman patent is that nowhere in Richman is direct electronic recovery or capture by use of a computer of an overpaid disability benefit from a deposit account taught or suggested.

13. My invention is directed to a recovery of an overpayment of disability benefits from a retroactive award of SSDI, once it is obtained. Richman's system is directed to the use of regular disbursements out of prospective deposits of an already established retirement benefit.

14. As one skilled in the art, I would point out that the terms "recover" or "recovery" and "disburse" or "disbursement" have totally different meanings.

They are totally different concepts. In my method, the third party, for example my company, is authorized to electronically recover overpaid benefits. Recover, in this sense, means to get back or regain the overpaid benefit from the account. By contrast, Richman et al requires a disbursement or a payout of money. This commonly means that another party, e.g. the bank or trustee of the deposit account, has to make a payment out of an account.

15. Under Richman, the financial institution does not recover funds from the deposit account; it already is in possession of the funds in the deposit account. The financial institution pays out of the deposit account. Hence, one following Richman would be led down the path to developing a scheme of disbursement out of a deposit account by the financial institution, not a method for a direct electronic recovery from a deposit account by a company like Allsup.

16. In my invention, a Service Provider, for example my company, obtains preauthorization from the disabled individual to access the deposit account and make a recovery. In Richman, the bank, which houses and generally controls the account pursuant to a contractual arrangement, disburses funds from the account according to the contract. These steps are conceptually, and practically, quite different, when considered by one skilled in the art.

17. As an example, beginning at col. 3, line 13, Richman describes a system that comprises a multi-party agreement among the beneficiary of a retirement fund, a funding source, or asset or service provider, and a financial institution designated to act as both a direct depository and a disbursement agent



for transferring funds from the deposit account to the funding source or asset provider. No such multi-party contract exists in, or is required by my invention.

18. The method I invented provides for the establishment of direct deposit of SSDI to a deposit account in a financial institution. However, the financial institution is under no specific contractual obligation to disburse funds from the account, which is significant.

19. It is my opinion, as one skilled in the art, that under the Richman plan, the beneficiary would be required to set up a deposit account, specific to the contemplated transactions, at a designated financial institution that has expressly agreed to be a contractual party to, and to actively participate in, the transactions. Under my method, any acceptable account (i.e. an account over which the disabled individual has control), established or maintained by the disabled individual at any financial institution, can be used. The financial institution does not have to expressly agree to be a party to any contract or to actively participate in the transaction.

20. Richman teaches the use of a disbursement from a deposit account to pay for a financial service or product, the valuation of which is based upon a determination of the present value of future retirement benefits. (col. 3, lines 38-45). Richman provides a system that requires a payment out of a funded account.

21. It is significant that the method of my invention provides a recovery of a preauthorized, predetermined amount of overpaid benefits, the value of which is certain, based upon an overpaid benefit previously provided by a third

party, and not predicated on actuarial or other means of determining the present value of a future asset, which may or may not be accurate. This amount can easily be calculated by the disability insurer or by the Service Provider.

22. Under my overpayment recovery system, the disabled individual can preauthorize an electronic recovery of a previously received asset of known value, i.e. a disability benefit previously paid by the third party.

23. As can be appreciated by one skilled in the art, Richman teaches a complex scheme requiring the contractual obligations between the beneficiary of retirement benefits, a designated financial institution, and a financial service or asset provider, as well as sophisticated actuarial or valuation procedures. It is a way to raise cash now or to acquire an asset or service now, based upon an already established future entitlement, providing significant financial incentives to the individual to cooperate fully.

24. Richman provides significant financial incentives to the individual to cooperate fully in his plan. By contrast, my invention is a method of recovering previously paid benefits for an LTD carrier or self-insured employer, who the disabled individual likely perceives to be an adversary. Contrary to Richman, the disabled individual has little or no economic incentive to participate in my system. The individual does not receive a new asset or service in exchange for the swept money.

25. By contrast to Richman, the only incentive to the individual to participate in my system is to obtain assistance in filing an SSDI claim and securing SSDI and, subsequently, honoring his or her obligation to return any

overpaid benefits to a private carrier or self-insured employer, once the individual receives retroactive SSDI benefits.

26. A program such as Richman's may be acceptable for a retired individual accustomed to money management or investment techniques that are seeking to cash in on the present value of a future benefit. However, this complex scheme is not appropriate for assisting a disabled individual in paying back overpaid disability benefits after the receipt of retroactive SSDI benefits. One skilled in the art, considering Richman, would find it to be too complex. My system and Richman's system have different goals.

27. Because the purpose of the Richman program is to provide a present financial benefit based upon the present value of future retirement benefits, and because of its complexity, Richman's scheme does not address or help to solve the problems I was seeking to solve.

28. As I set out in previous Affidavits, one of my major goals was to come up with a system for performing an uncomplicated, swift and efficient recovery of an overpaid disability benefit from a deposit account before the disabled person takes mental ownership of the money he or she is obligated to pay back.

29. To be successful, my method needed to be straight forward enough to encourage participation and to accomplish the recovery quickly and accurately upon deposit of the retroactive SSDI benefit, as determined by the DRD. In other words, my system is designed to be smooth and seamless.

30. Also, to solve the problems known in the art, the amount to be recovered must be readily determined so that the disabled individual can provide preauthorization for the electronic sweep of a sum certain upon direct deposit on a predetermined date. My overpayment recovery system solves this problem because the amount is based upon a previously paid benefit and not speculative determinations of present values of future benefits.

31. I believe that one of the reasons my system is successful in solving the problems recognized in the art is because it does not require a contract with a financial institution. It provides for a direct electronic recovery of the overpaid amount and does not rely on contracted disbursements of funds by the financial institution.

32. One skilled in the art, looking at Richman's complex scheme of contractual obligations and disbursements, would be led away from my simple, yet highly effective method of effecting a recovery before the disabled individual takes mental ownership of the deposited SSDI.

33. The novel system of my invention continues to enjoy substantial commercial success, related directly to its ability to increase the overall amounts of recovered overpayments and reduce the time for recovery.

34. The following is a chart that supplements the chart set out in Paragraph 33 of my first Affidavit and the chart in Paragraph 24 of my Supplemental Allsup Affidavit, showing the increase in recovery percentages and dollars recovered for all overpayment recovery service clients that we have experienced after commercial introduction of the process in November, 1999:

**TOTAL OVERPAYMENT RECOVERY SERVICE**  
(Recovery Percentages)

Year	Number of Recoveries Attempted	Number of Recoveries Made	% of Number Recovered	Dollar Amount of Recoveries Attempted	Dollar Amount of Recoveries Made	% of Dollars Recovered
1999	324	269	83.02%	\$3,844,244	\$3,220,635	83.78%
2000	1334	1160	86.96%	\$16,389,430	\$13,774,984	84.05%
2001	1869	1694	90.64%	\$22,498,021	\$19,847,580	88.22%
2002	2634	2340	88.84%	\$33,954,246	\$28,983,975	85.35%
2003	3946	3387	85.83%	\$47,938,686	\$40,551,337	84.59%
2004	6165	5193	84.23%	\$73,519,842	\$62,046,742	84.39%

35. The following chart supplements the chart of Paragraph 37 of my first Affidavit, and Paragraph 25 of my Supplemental Affidavit and summarizes the decrease in the number of days until overpayment recovery after initiation of the overpayment recovery employing the system of the present invention:

**OVERPAYMENT RECOVERY SERVICE**  
(Average Days to Recovery)

Year	Manual Method Clients		Electronic Method Clients		Weighted Average Days to Recovery
	Number of Recoveries Made	Average Days to Recovery	Number of Recoveries Made	Average Days to Recovery	
1999	197	23.1	72	9.7	19.5
2000	154	22.4	1006	9.6	11.3
2001	167	24.7	1527	6.8	8.6
2002	168	31.1	2172	11.4	12.8
2003	55	25.6	3332	14.6	14.8
2004	21	18.8	5172	15.6	15.6

36. One significant point illustrated by the chart of Paragraph 35 is that the number of recoveries made through the use of the old manual system has decreased to a point where it is no longer of any significance. Due to its

efficiencies and significant improvement in recoveries, the electronic system has essentially replaced the manual system.

37. The following chart supplements the chart set out in Paragraph 38 of my first Affidavit and paragraph 27 of my Supplemental Affidavit and shows a breakdown of the dollar amount of recoveries made, comparing the amounts collected when the represented individual repaid the overpaid amount directly (Manual Method Clients) vs. the new electronic overpayment recovery system (Electronic Method Clients).

Year	Dollar Amount Of Recoveries Made		
	Manual Method Clients	Electronic Method Clients	Total Dollar Amount of Recoveries Made
1999	\$2,271,215	\$949,420	\$3,220,635
2000	\$1,757,748	\$12,017,236	\$13,774,984
2001	\$2,074,304	\$17,773,276	\$19,847,580
2002	\$1,934,180	\$27,049,795	\$28,983,975
2003	\$674,249	\$39,877,088	\$40,551,337
2004	\$276,758	\$61,769,984	\$62,046,742
Total	\$8,988,454	\$159,436,799	\$168,425,253

38. The chart in Paragraph 37 illustrates the tremendous commercial success my invention has continued to meet since its introduction and since my previous affidavit. The total amount of recoveries made per year from 1999 to 2004 grew by over \$58 million. Presently, approximately 99% of the total dollars recovered are for electronic overpayment recovery system clients. Less than 1% of the recoveries were made for manual method clients. This demonstrates the superiority of my invention over prior methods and also the replacement of prior methods by my new invention.

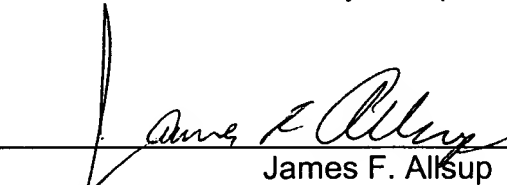
39. In my opinion, the continued commercial success of my electronic overpayment recovery service is primarily attributable to the fact that (a) it assists the disabled individual in filing and obtaining SSDI benefits; (b) it establishes direct deposit from SSA to a claimant account for the claimant; (c) the claimant signed preauthorization allows for electronic recovery of a predetermined overpayment amount from the designated account immediately after the direct deposit, but before the recipient takes “mental ownership” of the funds; (d) the service results in an increase in the amount of money recovered; (e) the service decreases the average days to recovery; and (f) the service increases LTD carrier or self-insured employer overpayment recovery rates.

40. In paragraph 19 of the Supplemental Declaration of Barry Wolfson submitted with the Supplemental Allsup Affidavit, Mr. Wolfson stated that he attended a meeting with the SSA and with some of the largest LTD carriers to address the industry-wide problem of non-recovered overpaid benefits. Since filing my previous Affidavits, I have determined that seven (7) of these participants have engaged my company, with another showing serious interest.

41. Because my system has met this long felt need in the industry, Allsup’s overpayment recovery services, particularly the electronic overpayment recovery service, continues to grow. Presently, the number of companies that have engaged our company to perform overpayment recovery services has grown to a total of sixty-eight (68) companies. It is significant to note that sixty-five (65) of these companies have chosen the electronic overpayment recovery service, while only three (3) have enrolled in the manual process. Moreover,

since the date of my first Affidavit, an additional thirty-two (32) companies have engaged Allsup to perform these services.

42. Allsup is the only company authorized to use my overpayment recovery system. However, I believe that there now are at least four competitors who have tried to copy our system. It remains my opinion these competitors are copying my electronic overpayment recovery service because it is groundbreaking and has significantly changed the industry. In fact, it is my understanding that client insurance carriers are entertaining proposals from my competitors for providing the same services offered by Allsup.

  
\_\_\_\_\_  
James F. Allsup

Sworn and subscribed to before me this 13<sup>th</sup> day of January,  
2005.

  
\_\_\_\_\_  
Notary Public

My Commission expires: 4-30-07

